

MINUTES

STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL

January 18, 2000 – Special Meeting
WSU Building – Conference Room 308
925 Plum Street SE, Building 4
Olympia, Washington

Item 1: Call to Order

The meeting was called to order at 1:30 p.m. by Chair Deborah Ross. A quorum was present.

Item 2: Roll Call

Chair	Deborah Ross
Department of Agriculture	Daniel Jemelka
Department of Community, Trade, and Economic Development	Heather Ballash
Department of Ecology	Charles Carelli
Department of Fish & Wildlife	Jenene Ratassepp
Department of Health	Ellen Haars
Military Department	Diane Offord
Department of Transportation	Gary Ray
Utilities & Transportation Commission	C. Robert Wallis
Port of Bellingham	Bob Hilpert (via phone)
Whatcom County	Dan McShane (via phone)

Others in Attendance

EFSEC Staff

Allen Fiksdal
Mike Mills
Irina Makarow
Diane Burnett

Assistant Attorney General

Richard Heath

Sumas Energy 2

Darrell Jones

Perkins Coie LLP

Karen McGaffey

Jones & Stokes Associates

Dave Broadfoot

Counsel for the Environment (Sumas 2)

Mary Barrett

Guests

Cindy Custer, Bonneville Power Admin.
Ann Kenny, Ecology
Mary Ann McGovern, Asst. Attorney General
David Davidson, City of Sumas Planning
Mark Johnson, Nooksack Valley Schools
Wayne Swanz, Economic Development
Council, Whatcom County
Steve Cokez, Northwest Building Trades

Dames & Moore
Katy Chaney

Connie Hoag, former Whatcom County
Council Representative (via phone)

Item 3: Sumas 2 Generation Facility, Application No. 99-1

Consideration of Start of Adjudicative Proceedings

(Deb Ross reporting)

Chair Ross briefed the Council regarding how she wanted to proceed with the agenda items. She indicated the purpose of the special meeting was to make decisions about the schedule for the adjudicative hearings for Sumas Energy 2 (SE2). Specifically, the question is should the Council begin the adjudication today and issue a notice of opportunity to intervene or should they wait until the draft Environmental Impact Statement (EIS) is issued in early to mid-February. She then provided some background information.

In past proceedings, the Council has required intervention before the draft EIS was issued but after the application was filed. The pilot process the Council adopted last year changed that practice in that the Council would issue the draft EIS before the formal adjudication and before intervention started. At the applicant's request, the Council told the applicant they would consider reverting back to the previous process, to a limited extent, but only if the applicant demonstrated that everyone entitled to intervene had been provided enough information about the project to make an informed decision. If the applicant demonstrated they had done this, the Council would then consider commencing the adjudication now, before the draft EIS is issued, by issuing the call for intervention. Today's discussion is limited to these scheduling matters; the Council is not going to discuss or hear discussion about whether or not they like the application or any impacts associated with it. Chair Ross proposed to proceed as follows: first, the Council will hear from the applicant about their outreach efforts, the Council would ask Mr. Fiksdal to give a description of contacts made to him; the Council will hear from the Counsel for the Environment; then the Council will hear from any state agencies to let us know about outreach efforts; and finally, the Council will hear from others who wish to be heard. She informed those attending that there was a sign-up sheet outside the door for people to sign-up to be heard by the Council. After all the comments are received, the Council will deliberate on the subject. She requested that everyone that wanted to comment keep those comments to the question she identified.

One other matter Chair Ross also identified is related to the transmission lines. The application provides for transmission lines that would go north from the facility into Canada; however, the applicant has informed the Council that there are one or more alternate transmission lines that could be built and those are not in the application. The Council made the determination that even though these lines are not in the application, they need to be addressed in the draft EIS. It is unclear how the existence of alternative transmission lines would affect entitlement to intervene.

The Council took comments from the applicants, Counsel for the Environment, and members of the public.

Ms. Karen McGaffey, speaking for the applicant, summarized the applicant's efforts to comply with the Council's directives regarding outreach to potential intervenors. These include:

- 1) Filing a complete application. Last week, SE2 filed its revised application and that application is complete. It addresses several changes that have been made in the project, which reduce the environmental impacts associated with it, and it provides all of the information that was requested by the Council's consultant, Jones and Stokes Associates.
- 2) Meeting with interested parties, and state agencies in particular, to try and identify issues of concern to those agencies and resolve them. The meetings they have held with state agencies was outlined in a letter sent to the Council January 7.
- 3) Conducting a public awareness program. They held a public meeting in January, at the project site, sending out 1,400 invitations notifying all the citizens of Sumas, everyone that lives within 400 feet of either the Whatcom County transmission routes, and a huge list of public officials in the US and Canada. This meeting was also published in the Sumas City Council newsletter. SE2 brought consultants and engineers to the project site for the public meeting, who handed out fact sheets, explained the project with visual aides, and answered questions for everyone attending. More than 65 people attended the meeting, providing some written comments, which they submitted to the Council's office. They have also scheduled another public meeting in Sumas, which will be held in conjunction with the City Council meeting in February. They hope this meeting will provide another forum to communicate with interested parties and answer their questions.

There have also been 14 articles in the Bellingham Herald and Lynden Tribune discussing the project. The project has also been mentioned in the Sumas City Council newsletter, which is distributed to its citizens, and she has been told that the project has also been mentioned on the City's cable access TV station. Having done everything the Council asked them to do, they are now asking the Council to begin the adjudicative process by a setting a deadline for parties to file for intervention. The question for the Council is whether agencies and individuals that might be interested in the project have been put on notice sufficiently that setting a deadline for filing intervention is now fair to request.

Mr. Fiksdal was asked to provide information to the Council on any comments he has received regarding the project. He stated he has had contact with the Canadian agencies, BC Ministry of Environment, the Greater Vancouver Regional District for Air Quality, and the Ministry for Engineering and Mines, all of who know about the project and, in his opinion, have enough information to make an informed decision regarding it. Regarding state agencies, he has talked with most of the state agencies involved. They report that they have been contacted by SE2 and have enough information to make an informed decision as well. He has also heard from 5 citizens, in the form of emails.

Ms. Mary Barrett, Council for the Environment, was then asked to comment. Ms. Barrett provided a letter to the Council outlining her concerns, which was distributed to the Council before this meeting, and summarized the letter.

Ms. Barrett's position was that the Council should wait for the draft EIS to be issued before beginning intervention.

Mr. Mark Johnson, Nooksack Valley School District Superintendent; Mr. Wayne Swanz, First Vice President, Economic Development Council, Whatcom County; Mr. David Davidson, Administrator, City of Sumas; and Mr. Steve Cokez, President, Northwest Washington Building and Construction Trades Council, all spoke in favor of proceeding with intervention immediately.

The Honorable Connie Hoag, Whatcom County Council member, commented that in her view, the public has not received sufficient information to make an informed decision regarding intervention. She believes the best possible solution was to wait to begin the intervention process after the draft EIS is issued.

Mr. Darrell Jones of SE2 addressed several of Ms. Hoag's concerns.

Ms. Haars asked Mr. Fiksdal if the revised application was available on the Council's website. Mr. Fiksdal responded that the text of the revised application was on the site, but not the graphics; the graphics would be on the site within the week. The actual notebooks that contained the revised application will be mailed to interested parties, that had received the original application, and that mailing will take place over the next week. This will make the revised application available to not only the libraries in Whatcom County, but to other interested parties as well.

Chair Ross then asked if there were any other parties wishing to address the Council on this subject, and there were no others wishing to.

At this point, Chair Ross suggested that the Council take a break and use this time to read the information provided by Mary Barrett and the information provided regarding the next agenda item, and then that they be ready to deliberate on the questions before the Council on SE2's request after the break.

The Council reconvened to deliberate on the questions before them; the first question is when they should begin the adjudication, either begin that today or sometime after the draft EIS is issued. And the second question, which is how much time should be allowed for filing for intervention.

The Council considered all of the testimony received and shared their own thoughts about the applicant's request to move forward with the adjudication. The Council considered questions about processes, times allowed for each step through the processes, and sought clarification of some of the steps taken at each stage of the process.

After these discussions, the Council adopted the following motion and directed staff to issue a notice of receipt of the revised application and that intervention is now open until the close of the comment period of the draft EIS.

Motion: It was moved and seconded that the Council set the deadline for submitting requests for intervention to coincide with the deadline for submitting comments to the draft Environmental Impact Statement (EIS).

Action: The motion passed unanimously.

Ms. Karen McGaffey asked to speak to the Council again. She indicated that the applicant is concerned about the schedule that is now being proposed. What may seem like only a few weeks to the Council is really the difference between one construction season and another for the project.

Mr. Bob Wallis responded. He expressed that he was also concerned about the length of time involved in this decision, but he shared his perception based on his involvement in several of these processes. He stated he feels that the key is to have an adequate draft EIS and an adequate application, and that once those things are done, the process moves along smoothly. He further noted that one of the reasons he is content with the decision the Council has reached today is again based on his experience; that even if the Council did open intervention now, the process still wouldn't get started until the Council is satisfied that the application is sufficient to proceed. We don't have that assurance right now; we have a lot of effort on your part but the key to a speedy decision is NOT when the intervention is called for, but how effectively the applicant works with the intervening agencies and how effectively the consultants work together to provide the information that the Council's consultant needs to proceed. So he feels that if the applicant devotes its efforts to those goals, that the ultimate objective, that is a speedy decision, will best be met no matter when the formal date of closing the intervention process is made.

Chair Ross then expressed to Sumas Energy 2 representatives that she very much appreciates their efforts and the outreach to state and other agencies. She uniformly heard back from those agencies that SE2 representatives had meet with them, had good discussions with them, and they were in support of the process.

Item 4: Energy Northwest Nuclear Projects (WNP-1/4)

Mr. Mike Mills briefed the Council on Energy Northwest's January 6, 2000 request to remove thirty-three (33) non-reusable buildings from the WNP-1/4 site. Energy Northwest had reported at the January meeting that they would like to proceed with the removal and/or disposal of these buildings as one of the initial tasks identified in the 1/4 Site Restoration Plan. They requested timely processing of the request so that a bid package could be released to see if there was any interest in any of the structures and the Council agreed to add this onto the special meeting agenda. Mr. Mills indicated that staff had reviewed the request and that he had visited that site last week to inspect the buildings being proposed for removal. He passed around pictures showing the type of structures that were included in the request and commented briefly on his observations on the contents of the buildings. Based on the review, staff is recommending that the Council approve the request.

Ms. Haars asked that the Council be assured that there are no hazardous materials located at any of these sites and that any safety issues would be dealt with. Mr. Wallis added that it was the Council's expectation that Energy Northwest would be in compliance with all applicable regulations associated with this activity. Staff responded that such statements would be included as requirements, should the Council approve the request.

Motion: It was moved and seconded that the Council authorize Mr. Fiksdal to send a letter to Energy Northwest authorizing disposal of all buildings and structures requested, provided that disposal is carried out consistent with all applicable local and state regulations.

Action: The motion passed unanimously.

Item 5: Adjourn

The meeting adjourned at 4:36 p.m.